

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

COMMONSPIRIT HEALTH,)
)
)
Plaintiff,)
)
)
v.)
)
HEALTHTRUST PURCHASING) **Case No. 3:21-cv-00460**
GROUP, L.P., and)
HPG ENTERPRISES, LLC,)
)
Defendants.)

DECLARATION OF JOHN FRYE

I, John Frye, declare as follows:

1. I am the Vice President of Supply Chain Enterprises for Plaintiff CommonSpirit Health (“CommonSpirit”). I have personal knowledge of the facts stated herein, and could and would testify competently thereto if sworn as a witness.

2. I joined Catholic Health Initiatives (“CHI”) in June 2016 in the role of Director Supply Chain Optimization. From 2017 to 2019 I was Vice President Supply Chain Operations and Procurement at CHI. After CommonSpirit’s formation in 2019, I was Vice President Supply Chain Operations and Finance until 2021. I have been Vice President Supply Chain Enterprises since 2021.

3. As Vice President Supply Chain Enterprises I am familiar with the services, advice, and assistance provided by McKinsey & Co. to CommonSpirit in connection with supporting value capture and capability development in supply chain which included the group purchasing organization (“GPO”) strategy and any transition plan. McKinsey’s role was to support CommonSpirit’s legal counsel, supply chain, and finance departments.

4. McKinsey was engaged for its work in connection with the above study on or about April 10, 2019, as reflected by the Statement of Work of that date. The Statement of Work is the

only agreement between McKinsey and CommonSpirit that I am aware of, and I am informed and believe that there is no other master retainer agreement between McKinsey and CommonSpirit.

5. McKinsey played a role in the analysis of the then current GPO arrangements under the Participation and Partnership Agreements of CHI and Dignity Health and McKinsey engaged in business strategy which necessarily involved examining the legal issues associated with the GPO arrangements.

6. Given the nature of McKinsey's services, which included working with CommonSpirit's legal counsel to understand potential degrees of freedom within the GPO arrangements, sensitive information was necessarily shared and communications and materials between CommonSpirit and McKinsey were treated as confidential. McKinsey worked closely with CommonSpirit's legal counsel, supply chain, and finance divisions.

7. McKinsey team members worked in CommonSpirit's offices and were considered the equivalent of CommonSpirit employees. To my understanding, CommonSpirit counsel worked with the McKinsey consultants in the same manner as they did with full time CommonSpirit employees. McKinsey team members were integrated members of the team that was responsible for analyzing the GPO strategy going forward, which included numerous legal considerations and strategies.

8. McKinsey played a crucial role in the team, assisting in an administrative, managerial, and analytic capacity, including legal. McKinsey was intimately involved in the creation, development, and implementation of the GPO strategy. To my understanding, McKinsey worked directly with CommonSpirit's legal counsel to understand potential "degrees of freedom" in CommonSpirit's contracts.

9. McKinsey was subject to the same confidentiality expectations as CommonSpirit employees, and there was a general expectation and understanding that the attorney-client privilege would apply to communications between McKinsey and CommonSpirit employees and counsel.

10. To my understanding, the information provided by McKinsey to CommonSpirit's counsel was necessary to allow CommonSpirit's counsel to provide sound and informed advice.

McKinsey possessed certain information needed by CommonSpirit counsel in connection with the GPO strategy and analysis.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 30th day of November, 2022, at _4:30pm_, _PST_.

John Frye